

FILED  
CHARLOTTE, NC

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA MAR 11 2021

UNITED STATES OF AMERICA

v.

Johnathan Clyburn  
Defendant

US DISTRICT COURT  
WESTERN DISTRICT OF NC

Criminal Case No. 0419 3:11CR00292-  
001

**AGREED ORDER AND JUDGMENT  
TO REVOKE SUPERVISED RELEASE**

Upon petition of the U.S. Probation Office, joined herein by the United States and the defendant, to revoke the supervised release of defendant Johnathan Clyburn and for good cause shown therein, and also based on agreement of the parties as set forth herein:

AGREEMENT OF UNITED STATES AND DEFENDANT

The defendant agrees and stipulates that he has violated the terms and conditions of supervised release in the following respects:

1. FAILURE TO REPORT AS DIRECTED (Date violation concluded: 9/15/2020). The defendant has violated the condition of supervision that states, "The defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer," in that, the defendant failed to make himself available for supervision on multiple occasions at the request of this officer. This officer made attempts to contact him on July 1, 2020; July 29, 2020; and finally, on September 15, 2020. This defendant has demonstrated behavior consistent with absconding from supervision. (Grade C Violation)

2. FAILURE TO MAINTAIN LAWFUL EMPLOYMENT (Date violation concluded: 9/15/2020). The defendant has violated the condition of supervision that states, "The defendant shall work full time (at least 30 hours per week) at lawful employment, unless excused by the probation officer. The defendant shall notify the probation officer within 72 hours of any change regarding employment," in that, the defendant failed to secure and maintain lawful employment during his term of supervised release. The defendant also failed to follow up on job referrals provided by his assigned officer. (Grade C Violation)

The parties stipulate, pursuant to Chapter 7 Policy Statements, U.S. Sentencing Guidelines, that the defendant's violations are a maximum Grade C and that the defendant has a Criminal History Category of II.

The parties stipulate, based on U.S.S.G. §7B1.4, that the Guidelines range of imprisonment for a Grade C violation and a Criminal History Category of II is a term of imprisonment from four (4) to ten (10) months.

The parties agree, pursuant to Rules 11(c)(1)(C) and 32.1, Federal Rules of Criminal Procedure, that the Court should revoke supervised release and order the defendant to be imprisoned for a period of ten (10) months. If the Court rejects this sentencing agreement, the defendant has the right to withdraw from this Agreed Order and have an evidentiary hearing on the petition for revocation of supervised release.

### DEFENDANT'S ACKNOWLEDGMENT AND WAIVER

The defendant acknowledges that he is admitting the violations of supervised release because he did, in fact, violate the conditions of supervised release set forth above.

The defendant acknowledges that he has had an opportunity 1) to review the written notice of the alleged violations of supervised release and 2) to review the evidence against him related to those alleged violations.

The defendant further acknowledges that he is aware of the following rights and is knowingly waiving these rights in exchange for the agreed sentence:

- 1) The opportunity to appear personally, present evidence, and question adverse witnesses at a revocation hearing; and
- 2) The opportunity to make a statement personally to the Court in mitigation of sentence and to present mitigating evidence to the Court.

If the Court accepts the agreed sentence, the defendant knowingly waives the right to contest the revocation of supervised release and the defendant's sentence in any appeal or post-conviction action. Claims of (1) ineffective assistance of counsel and (2) prosecutorial misconduct, and those claims only, are exempt from this waiver.

AGREED SENTENCE

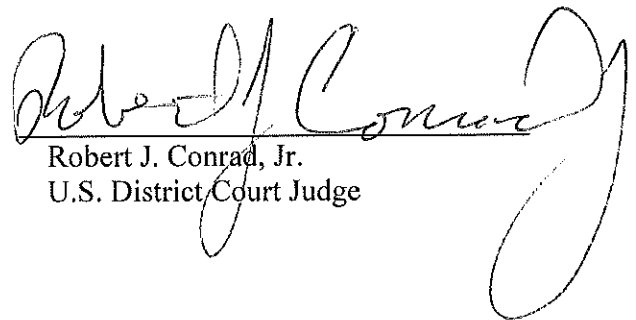
Upon agreement of the parties as set forth above, it is hereby ORDERED that the previously imposed period of supervised release is REVOKED.

It is further ORDERED that the defendant Johnathan Clyburn be and is hereby SENTENCED to a term of imprisonment of ten (10) months on Counts 1 and 2 of the judgment, to run concurrently.

It is further ORDERED that no additional term of supervised release is ORDERED following the defendant's release from imprisonment.

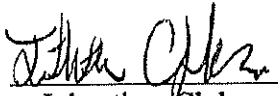
It is further ORDERED that any restitution order, fine, and special assessment imposed in the original Judgment in a Criminal Case are hereby reimposed and are to be paid in full immediately.

So ORDERED and ADJUDGED, this the 11<sup>th</sup> day of March, 2021.

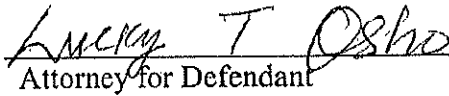


Robert J. Conrad, Jr.  
U.S. District Court Judge

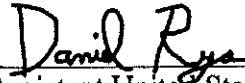
**APPROVED**



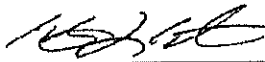
Johnathan Clyburn  
Defendant



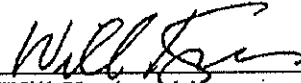
Attorney for Defendant



Assistant United States Attorney



Glynis Eaton  
Supervisory U.S. Probation Officer



Will Kozlowski  
Probation Officer